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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/550,639

07/10/2006

Petrus Martinus Leonardus Beks

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EXAMINER

TAPOLCAI, WILLIAM E

ART UNIT

PAPER NUMBER

3744

NOTIFICATION DATE

DELIVERY MODE

01/12/2010

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentgroupus@unilever.com

Office Action Summary	Application No. 10/550,639	Applicant(s) BEKS ET AL.	
	Examiner WILLIAM E. TAPOLCAI	Art Unit 3744	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 November 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>20091208</u> . | 6) <input type="checkbox"/> Other: _____ |

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The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-14 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 3,204,421 to Jirel in view of U.S. Patent No. 6,185,951 to Lane et al. Jirel discloses the claimed invention of a display and dispensing assembly having a freezer cabinet 10 and a housing 14 located externally of the cabinet. The assembly 14 is removable from the freezer cabinet 10. Jirel further discloses a first heat transfer means 70-76 located within the housing, and a second heat transfer means 46, 48 located in the cabinet. Thus, Jirel discloses the claimed invention except that a heat transfer fluid is pumped external to the freezer cabinet. Lane et al teaches a display case having an external fluid that is delivered to the cabinet 10 by a pump 18. Lane et al is considered to teach that the heat transfer fluid is pumped between the first heat transfer means 16 and the second heat transfer means 12 or 14. Thus, it would be obvious to cool the cabinet 12 of Jirel with an external fluid that is pumped, in view of Lane et al, to yield the predictable result of using a cooling fluid that is non-toxic. The type of tubing used in Jirel is a matter of obvious choice, as flexible tubing is well known. No criticality or unexpected results are seen or have been disclosed for the use of flexible tubing in Jirel.

Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jirel in view of Lane et al as applied to claim 1 above, and further in view of U.S. Patent No.

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3,091,946 to Kesling. Jirel as modified above by Lane et al discloses the claimed invention except for the adjustable foot. Kesling teaches a refrigerator having a cabinet with an adjustable foot 60. Thus, it would be obvious to provide Jirel with an adjustable foot, in view of Kesling, to yield the predictable result of making sure the cabinet is level.

Applicant's arguments filed November 25, 2009 have been fully considered but they are not persuasive. In regards to the argument that there is no disclosure or teaching of the heat transfer fluid being pumped between the first heat transfer means and the second heat transfer means, it is respectfully submitted that this is clearly taught by Lane et al. The block 16 is considered the first heat transfer means and the coils 12 or 14 would be the second heat transfer means. This type of secondary cooling is notoriously well known.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to WILLIAM E. TAPOLCAI whose telephone number is (571)272-4814. The examiner can normally be reached on Monday-Thursday from 6:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cheryl J. Tyler can be reached on (571)272-4834. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/WILLIAM E. TAPOLCAI/
Primary Examiner, Art Unit 3744

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January 5, 2010